

6. (Amended) A device as defined in claim 2, wherein said cooling means comprises a plurality of chambers each in proximity to [an] and open in the direction of a wafer held in position for treatment, said chambers being connected to said gas supplying means.

REMARKS

This Amendment is responsive to the Final Office Action mailed on November 21, 2002. The Examiner's comments in the Office Action have been carefully considered.

The Examiner points out a minor informality in claim 6 and indicates that it renders that claim indefinite. The claim had read, "proximity to an open in the direction of". The claim has now been corrected to its original meaning of "proximity to and open in the direction of". This amendment introduces no new matter, and simply corrects a typographical error in the text. It is respectfully submitted that this claim is now definite and particularly points out and distinctly claims the subject matter that applicant regards as the invention.

The Examiner also indicates in this Office Action that although the subject application is entitled to an international filing date of April 11, 1995, its effective filing date under 35 U.S.C. §§102(e) and 371(c) is September 9, 1998. On the basis of this determination, the Examiner has cited and relied on a number of references in making the Section 103 that have filing dates that fall between the international filing date and the §§102(e) and 371(c) dates.

The Examiner correctly points out that the decision dated February 23, 1999, on a

Petition initially filed under 37 CFR §1.47(a) stated that the international filing date for this application was April 11, 1995, and the 35 U.S.C. §§102(e) and 371(c) date was September 9, 1998.

It is respectfully pointed out, however, that Section 102(e) is merely a date by which an application becomes a reference against a later-filed application. Therefore, when this application becomes a patent, it will become a reference in relation to others that were filed after September 8, 1998. However, Section 102(e) specifies that the application is only a reference as to later applications if it has a filing date that is prior to the "invention" by applicant of the later application. In this case, applicant was accorded an international filing of April 11, 1995, which becomes the effective filing date for this application as is clearly proof that applicants of the subject application had the "invention" as least as early as April 11, 1995. In these circumstances, any patent that issued with filing dates subsequent to the effective filing date of April 11, 1995, cannot and should not be used as references in this application. This immediately eliminates the primary reference cited by the Examiner, U.S. Patent No. 6,139,678 to Sinaguine, as well as the later patent to this same patentee, U.S. Patent No. 6,188,697. The effective filing date of the subject application would not, however eliminate the secondary reference U.S. Patent No. 5,308,461 to Ahonen, as this patent was filed in 1992. However, since only secondary reference survives, this would fairly defeat the Examiner's rejection as it presently stands.

The above dates and the effectiveness thereof have been discussed with the PCT Legal Office as well as with the Examiner. The Legal Office has confirmed that applicants are entitled to their international date insofar as references cited against this application

are concerned. The Examiner has also agreed in this respect and has requested that this argument be submitted in writing, at which time it will be favorably considered.

In view of the foregoing, the obviousness rejections under 35 U.S.C. §103 are believed to be moot, and should be withdrawn. This application is now believed to be in condition for allowance. Early allowance and issuance are, accordingly, respectfully solicited.

Dated: February 3, 2003

Respectfully submitted,

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I hereby certify that this correspondence is being filed by depositing same in an envelope stamped first-class mail, addressed to the Director of Patents, U.S. Patent Office, Washington, D.C. 20231, in a duly marked U.S. Postal Service drop box, with appropriate postage, on the following date:

Myron Greenspan

Attorney


Signature

February 3, 2003

Date

Applicant hereby petitions that any and all extensions of time of the term necessary to render this response timely be granted. COSTS FOR SUCH EXTENSION(S) AND/OR ANY OTHER FEE DUE WITH THIS FEE DUE WITH THIS PAPER THAT ARE NOT FULLY COVERED BY AN ENCLOSED CHECK MAY BE CHARGED TO DEPOSIT ACCOUNT #10-0100.

ATTACHMENT. AMENDED CLAIM 6 WITH ADDITIONS AND DELETIONS MARKED.

6. (Amended) A device as defined in claim 2, wherein said cooling means comprises a plurality of chambers each in proximity to [an] and open in the direction of a wafer held in position for treatment, said chambers being connected to said gas supplying means.